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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANDREW DOUGLAS BOCKING and
RAYMOND PAUL VANDER VEEN

Appeal 2016-003251
Application 14/083,075¹
Technology Center 2600

Before ROBERT E. NAPPI, CARL L. SILVERMAN, and
JAMES W. DEJMEK, *Administrative Patent Judges*.

DEJMEK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–20. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify Research in Motion Limited as the real party in interest. App. Br. 3.

STATEMENT OF THE CASE

Introduction

Appellants claimed invention is directed to “an improved phone call log.” Spec. ¶ 1. In particular, rather than presenting a call log organized chronologically or based on the category of the call (e.g., a missed call, a received call, or a placed call), Appellants disclose a log “group[ing] or link[ing] together all logged calls that are associated with the same originating or dialed phone number or contact person.” Spec. ¶ 4.

Claim 1 is representative of the subject matter on appeal and is reproduced below with the disputed limitation emphasized in *italics*:

1. A method of displaying a communications log on a mobile device, the method comprising:

displaying an entry in the communications log associated with one of an outgoing phone call associated with a phone number and an incoming phone call associated with the phone number, the entry including a name associated with the phone number when the phone number corresponds to a stored contact, and the phone number when the phone number does not correspond to a stored contact, *wherein the entry is displayed with a plurality of entries associated with outgoing and incoming phone calls to and from respective phone numbers, wherein only a single entry is displayed for each phone number associated with the respective entries*; and

displaying a call history after the entry is selected, the call history including the outgoing phone call and the incoming phone call associated with the phone number.

The Examiner’s Rejection

Claims 1–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Furuta et al. (US 2004/0102225 A1; May 27, 2004)

(“Furuta”) and Starbuck et al. (US 7,512,400 B2; Mar. 31, 2009)
 (“Starbuck”). Final Act. 2–5.

Issues on Appeal

1. Did the Examiner err in finding the combination of Furuta and Starbuck teaches or suggests a communications log in which an “entry is displayed with a plurality of entries associated with outgoing and incoming phone calls to and from respective phone numbers, wherein only a single entry is displayed for each phone number associated with the respective entries,” as recited in claim 1?
2. Did the Examiner err in relying on the proposed combination of Furuta and Starbuck in rejecting claims 1–20?

ANALYSIS²

Appellants contend the Examiner erred in finding Starbuck teaches a communications log comprising outgoing and incoming calls associated with an entry (i.e., phone number). App. Br. 9–11; Reply Br. 2–4. In particular, Appellants assert the Examiner relies on a contact list rather than a communications log. App. Br. 9–10 (citing Starbuck Fig. 4, item 413). Further, Appellants argue Starbuck distinguishes between displaying a list of contacts (Starbuck, Fig. 4, item 413), a list of incoming calls (Starbuck,

² Throughout this Decision we have considered the Appeal Brief, filed May 18, 2015 (“App. Br.”); the Reply Brief, filed February 1, 2016 (“Reply Br.”); the Examiner’s Answer, mailed on November 30, 2015 (“Ans.”); and the Final Office Action (“Final Act.”), mailed on December 19, 2014, from which this Appeal is taken.

Fig. 4, item 412), and a list of outgoing calls (Starbuck, Fig. 4, item 411).
App. Br. 10–11.

In rejecting claim 1, the Examiner finds, *inter alia*:

Starbuck teaches a list (log) of outgoing calls 411 (figure 4), a list of incoming calls 412, and a list of all contacts 413 (obviously a combined call log with all incoming and outgoing calls for each contact as in figure 7), wherein only a signal entry for each phone number (contact) is displayed (figure 4, window 410), and when a list is selected, contacts in the list (log) [are] displayed in window 410, and when a contact is selected from a list (e.g. all contact list), a log of communications for the selected contact is displayed, including incoming and outgoing calls (figure 7).

Final Act. 3. The Examiner explains Starbuck teaches when a single contact from the contact list (413) is selected, a user may select to view a communications log comprising outgoing and incoming calls associated with a single contact entry. Ans. 7 (citing Starbuck, col. 5, ll. 54–67; col. 6, ll. 8–21; col. 6, l. 65–col. 7, l. 7; col. 8, ll. 52–62; Figs. 5, 7).

Appellants concede Starbuck discloses that a user may view the “recent communications” associated with a contact and that the recent communications may include outgoing and incoming calls. Reply Br. 3. However, Appellants assert Starbuck only displays a contact window when an entry is selected, whereas the present claims display a call history after an entry is selected. Reply Br. 3–4 (citing Starbuck, col. 6, ll. 14–15, Fig. 5).

We do not find Appellants’ arguments persuasive of Examiner error. Figure 7 of Starbuck is illustrative and is reproduced below:

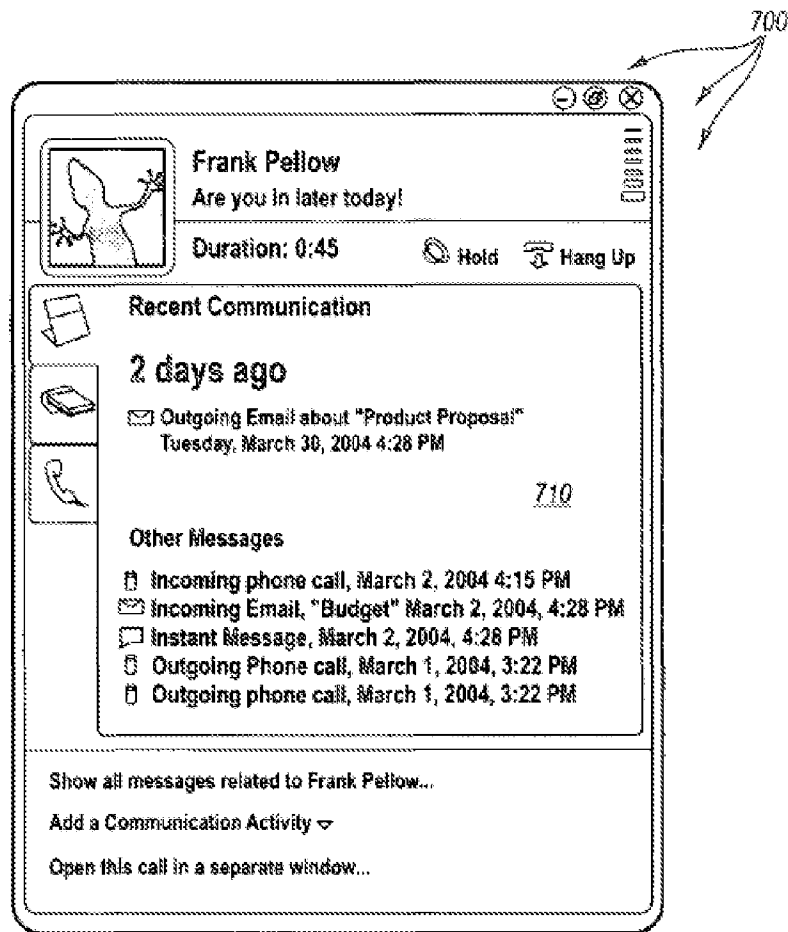


Fig. 7

Figure 7 of Starbuck “illustrates a user interface showing the flexible nature of how the messages may be organized and queried.” Starbuck, col. 2, ll. 59–60. As shown in Figure 7 of Starbuck, and as the Examiner explains, Starbuck teaches when a contact (i.e., an entry is selected), a combined call log, including incoming calls, outgoing calls, and messages associated with that entry, is displayed. Ans. 7; *see also* Starbuck, col. 8, ll. 52–62 (“FIG. 7 illustrates an example of a user interface 700 that shows the results of a query for recent communications with a particular person.”)).

Further, although the claims are interpreted in light of the Specification, limitations from the Specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). Contrary to Appellants' assertions, the claim language does not preclude a user from selecting a contact/entry prior to displaying a combined call log. Accordingly, Appellants' arguments are not commensurate with the scope of claim 1 and, thus, do not persuade us of error in the Examiner's rejection. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (limitations not appearing in the claims cannot be relied upon for patentability).

Additionally, the Examiner finds it would have been obvious to a person of ordinary skill in the art to modify the teachings of Furuta with the teachings of Starbuck (i.e., displaying a combined log of incoming and outgoing calls associated with a contact) "by combining known prior art elements according to known methods to yield predictable results." Final Act. 4.

We agree with the Examiner. "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007) (quoting *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007)).

Appellants also argue that a person of ordinary skill in the art would not have combined/modified Furuta and Starbuck as proposed by the Examiner. App. Br. 11–12; Reply Br. 4–5. In particular, Appellants assert "Furuta specifically calls for displaying incoming calls and outgoing calls *separately* rather than collectively." App. Br. 11; Reply Br. 4–5. In support of this assertion, Appellants direct our attention to dependent claim 8 of

Furuta, which recites, *inter alia*, the first display control means of claim 1 “separately displays an outgoing call log and an incoming call log as the communication log.” Additionally, Appellants contend the proposed combination would render Furuta unsatisfactory for its intended purpose and alter Furuta’s principle of operation. App. Br. 12.

As an initial matter, it is well settled that mere attorney arguments and conclusory statements, which are unsupported by factual evidence, are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see also In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974) (attorney argument is not evidence). Appellants do not provide sufficient persuasive evidence or argument that the Examiner’s proposed modification of Furuta with Starbuck either frustrates the intended purpose of, or alters the principle of operation of Furuta. Further, we note that claim 8 of Furuta, as identified by Appellants, depends from claim 1. Dependent claims provide a further limitation of the subject matter claimed in the independent claim. 35 U.S.C. § 112, fourth paragraph. We find that by further limiting the communications log displayed by the first display control means to display separate logs for incoming and outgoing calls, independent claim 1 of Furuta contemplates a communication log comprising both incoming and outgoing calls.

Additionally, the Examiner finds the decision on how to display a call log to a user is a design choice achieved by “combining known prior art elements according to known methods to yield predictable results.” Ans. 7; Final Act. 4. Design choice may be an acceptable rationale for an obviousness rejection when a claimed product merely arranges known elements in a configuration recognized as functionally equivalent to a known

configuration. *See In re Kuhle*, 526 F.2d 553, 555 (CCPA 1975).

Appellants do not persuasively address or rebut the Examiner's findings.

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner's rejection of claim 1 and, for similar reasons, the rejection of independent claim 12, which recites similar limitations and was not argued separately. *See App. Br. 12*. Additionally, we sustain the Examiner's rejection of dependent claims 2–11 and 13–20, which were not argued separately. *See App. Br. 12*.

DECISION

We affirm the Examiner's decision to reject claims 1–20.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED